

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
FAREPORTAL INC. D/B/A CHEAPOAIR,

Plaintiff,

-against-

OPINION CORP. D/B/A PISSEDCONSUMER,

Defendant.
-----X

08 CIV

DECLARATION
OF
HARSH SOOD

I, HARSH SOOD, under penalty of perjury, hereby depose and say
as follows:

1. I am the Chief Technology Officer of Fareportal Inc.
2. Fareportal Inc. is a software development and engineering
company which works exclusively for
3. Fareportal Inc. does business as Cheapoair.
4. As Chief Technology Officer my duties include overseeing the
technology department for Fareportal Inc. in the United States and India. I
supervise around 40 employees. Fareportal Inc. handles technology
issues for Cheapoair in respect to the Internet and its two data centers
which host servers that power the Cheapoair websites. We also maintain
domains and provide software development and security for Fareportal Inc.

5. I am fully familiar with Fareportal Inc. and Cheapoair and this declaration is based upon personal knowledge.

6. Fareportal Inc. was incorporated under the laws of the State of New York on or about February 27, 2003. Attached hereto as exhibit "A" is the certificate of incorporation.

7. Fareportal Inc. filed a Certificate of Assumed Name with the New York Department of State on or about January 12, 2006. The assumed name is Cheapoair.com. Attached hereto as exhibit "B".

8. The cheapoair.com domain was registered in June 2005. The Cheapoair.com website has been in continuous use since 2006.

9. Fareportal Inc. registered for trademark the name "cheapOair.com the only way to go!!" on or about March 6, 2008. Attached hereto as exhibit "C" is a copy of the trademark/service mark application and receipt.

10. The business of Cheapoair and Cheapoair.com is to provide travel services over the Internet for consumers so that they can purchase air tickets, rent cars, book hotels, and make other travel arrangements. Cheapoair began business in 2006. Cheapoair provides services in the United States and Canada.

11. Plaintiff first learned of the cheapoair.com.pissedconsumer.com and cheapoair.pissedconsumer.com websites, (hereinafter referred to as "pissedconsumer websites"), on or about May 25, 2008. I first learned of these websites in the middle of June 2008.

12. It is believed that these pissedconsumer websites were created on or about May 2008.

13. Permission was never given to pissedconsumer to use Cheapoair or Cheapoair.com. or its metatags.

14. The business of Cheapoair has been affected by the pissedconsumer websites. Pissedconsumer websites have hyperlinks that allow visitors to go to webpages of competitors of Cheapoair. These competitors include Smartertravel.com, bookingbuddy.com, Rocky Mountain vacations, couponmountain.com, etc.

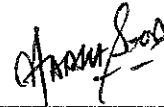
15. Ticket sales have dropped dramatically for Cheapoair from June 2008 in comparison to June 2007 due to the diversion of potential customers from the Cheapoair website. The loss in business revenue to Cheapoair for the month of June 2008 in comparison to June 2007 is more than seven (7) figures.

16. Cheapoair budgets and expends more than seven figures per month on online advertising, yet Cheapoair has seen a significant decline in business because of the pissedconsumer websites.

17. Cheapoair's business has been irreparably harmed and will continue to be irreparably harmed if an injunction is not issued restraining defendant pissedconsumer from using Cheapoair's mark and its metatags.

18. The foregoing is true and correct to the best of my personal knowledge, information and belief.

Dated: New York, New York
June 30, 2008



Harsh Sood

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F 080227000364

CERTIFICATE OF INCORPORATION

OF

FAREPORTAL INC.

Under Section 402 of the Business Corporation Law

IT IS HEREBY CERTIFIED THAT:

(1) The name of the Corporation is:

FAREPORTAL INC.

(2) The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized pursuant to the Business Corporation Law of the State of New York. The Corporation is not to engage in any act or activity required any consents of approvals by law without such consent or approval first being obtained.

For the accomplishment of the aforesaid purposes, and in furtherance thereof, the Corporation shall have, and may exercise, all of the powers conferred by the Business Corporation Law upon corporations formed thereunder, subject to any limitations contained in Article 2 of said law or in accordance with the provisions of any other statute of the State of New York.

(3) The number of shares which the Corporation shall have the authority to issue is 200 Shares at no par value.

(4) The corporation is to be located in the County of New York, State of New York.

(5) The Secretary of State is designated as agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon him is:

FAREPORTAL INC.

Shailesh Jain
213 West 35th St. - Ste. #1201
New York, NY 10001

The undersigned incorporator is of the age of eighteen years or older.

IN WITNESS WHEREOF, this certificate has been subscribed this 26th day of February, 2003, by the undersigned who affirms that the statements made herein are true under the penalties of perjury.

Bruce B. Hubbard

77 East John Street, Hicksville, NY 11801

Bruce B. Hubbard, Incorporator

Address

2

F 080227000 364

CERTIFICATE OF INCORPORATION

OF

FAREPORTAL INC.

Under Section 402 of the Business Corporation Law

HUBCO #29

FILED
2003 FEB 27 PM 1:13

FILER:
B.R. Pandit, CPA
19 West 34th Street - #912
New York, NY 10001

STATE OF NEW YORK
DEPARTMENT OF STATE

FEB 27 2003

FILED
TAX \$ 10
BY: [Signature]
New York

FEB 27 10 12 AM '03

080227000 376

State of New York }
Department of State } ss:

I hereby certify that the annexed copy has been compared with the original document filed by the Department of State and that the same is a true copy of said original.

Witness my hand and seal of the Department of State on

December 30, 2004



Secretary of State

A handwritten signature in black ink, appearing to be "R. A. D.", written over the printed name of the Secretary of State.

DOS-200 (Rev. 03/02)

STATE OF NEW YORK
DEPARTMENT OF STATE

I hereby certify that the annexed copy has been compared with the original document in the custody of the Secretary of State and that the same is a true copy of said original.



WITNESS my hand and official seal of the
Department of State, at the City of Albany, on
January 9, 2008.

Paul LaPointe

Paul LaPointe
Special Deputy Secretary of State

200601120 AG

Certificate of Assumed Name
Pursuant to General Business Law, §130

NYS Department of State
Division of Corporations, State Records and UCC
41 State Street, Albany, NY 12231-0001
www.dos.state.ny.us

1. NAME OF ENTITY

FAREPORTAL INC.

1a. FOREIGN ENTITIES ONLY. If applicable, the fictitious name the entity agreed to use in New York State is:

2. NEW YORK LAW FORMED OR AUTHORIZED UNDER (CHECK ONE):

- ☒ Business Corporation Law ☐ Limited Liability Company Law
☐ Education Law ☐ Not-for-Profit Corporation Law
☐ Insurance Law ☐ Revised Limited Partnership Act
☐ Other (specify law):

3. ASSUMED NAME

Cheapoair.com

4. PRINCIPAL PLACE OF BUSINESS IN NEW YORK (STATE MUST BE NUMBER AND STREET, IF NONE, INSERT OUT-OF-STATE ADDRESS)

213 West 35th Street, Suite 1201

New York, New York 10001

County of New York

5. COUNTIES IN WHICH BUSINESS WILL BE CONDUCTED UNDER ASSUMED NAME

☐ ALL COUNTIES (if not, circle county(ies) below)

Albany	Clinton	Genesee	Monroe	Orleans	Saratoga	Tompkins
Allegany	Columbia	Greene	Montgomery	Oswego	Schenectady	Ulster
Bronx	Cortland	Hamilton	<u>New York</u>	Otsego	Schoharie	Warren
Broome	Delaware	Herkimer	<u>New York</u>	Putnam	Schuyler	Washington
Cattaraugus	Dutchess	Jefferson	<u>New York</u>	Queens	Seneca	Wayne
Cayuga	Erie	Kings	Oneida	Rensselaer	Steuben	Westchester
Chautauque	Essex	Lewis	Onondaga	Richmond	Suffolk	Wyoming
Chemung	Franklin	Livingston	Ontario	Rockland	Sullivan	Yates
Chenango	Fulton	Madison	Orange	St Lawrence	Tioga	

6. INSERT THE ADDRESS OF EACH LOCATION WHERE BUSINESS WILL BE CARRIED ON OR TRANSACTED UNDER THE ASSUMED NAME.
Use a continuous sheet, if needed. (The address must be set forth in terms of a number and street, city, state and zip code. Please note that the address(es) reflected in paragraph 6 must be within the county(ies) circled in paragraph 5. If the entity does not have a specific location where it will conduct business under the assumed name please check the box.)

☐ No New York State Business Location

213 West 35th Street

Suite 1201

New York, New York 10001

County of New York

20060112026

INSTRUCTIONS FOR SIGNATURE: If corporation, by an officer; if limited partnership, by a general partner; if limited liability company, by a member or manager or by an attorney-in-fact or authorized person for such corporation, limited partnership, or limited liability company.

Brian M. Hand, Secretary
Name and Title

[Signature]
Signature

030227000364

CERTIFICATE OF ASSUMED NAME
OF

FAREPORTAL INC.

(Insert Entity Name)

Pursuant to §130, General Business Law

RECEIVED
2006 JAN 12 AM 9:02
FILER'S NAME AND MAILING ADDRESS

Nordlicht and Hand, LLP
1045 Fifth Avenue
NEW YORK, NY 10022

NOTE: This form was prepared by the New York State Department of State. You are not required to use this form. You may draft your own form or use forms available at legal stationery stores. The Department of State recommends that all documents be prepared under the guidance of an attorney. The certificate must be submitted with a \$25 fee. The Department of State also collects the following, additional, county clerk fees for each county in which a corporation does or transacts business: \$100 for each county within New York City (Bronx, Kings, New York, Queens and Richmond) and \$25 for each county outside New York City. All checks over \$500 must be certified.
(For Office Use Only)

STATE OF NEW YORK
DEPARTMENT OF STATE

FILED JAN 12 2008

FILED 153304

BY: SB

2006 JAN 12 AM 9:57

FILED

PTO Form 1476 (Rev 9/2006)

OMB No. 0651-0009 (Exp 09/30/2008)

Trademark/Service Mark Application, Principal Register TEAS Plus Application

To the Commissioner for Trademarks:

MARK: cheapOair.com the only way to go!! (stylized and/or with design, see mark)

The literal element of the mark consists of cheapOair.com the only way to go!! The color(s) grey and red is/are claimed as a feature of the mark. The mark consists of the letters "cheap" in grey lowercase lettering with a red curved underline, the letter "O" in red capital lettering, the letters "air" in grey lowercase lettering, the letters ".com" in red lowercase lettering, the words "the only way to" in grey lowercase cursive lettering, and the word "go!!" in red lowercase cursive lettering.

The applicant, Fareportal, Inc., a corporation of New York, having an address of Suite 1201, 213 West 35th Street, New York, New York, United States, 10001, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

For specific filing basis information for each item listed below, click directly on the class heading (s).

International Class 039: Providing links to web sites of others featuring travel; Travel and tour information service; Travel and tour ticket reservation service

If the applicant is filing under Section 1(b), intent to use, the applicant declares that it has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(b), as amended.

If the applicant is filing under Section 1(a), actual use in commerce, the applicant declares that it is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

If the applicant is filing under Section 44(d), priority based on foreign application, the applicant declares that it has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and asserts a claim of priority based on a specified foreign application(s). 15 U.S.C. Section 1126(d), as amended.

If the applicant is filing under Section 44(e), foreign registration, the applicant declares that it has a bona fide intention to use the mark in commerce on or in connection with the identified goods and/or services, and submits a copy of the supporting foreign registration(s), and translation thereof, if appropriate. 15 U.S.C. Section 1126(e), as amended.

The applicant hereby appoints Yuval D. Bar-Kokhba, Esq and Nikolaos E. Diamantis, Esq. of Garbarini & Scher, P.C., 432 Park Avenue South, New York, New York, United States, 10016-8013 to submit this application on behalf of the applicant.

Correspondence Information: Yuval D. Bar-Kokhba, Esq
432 Park Avenue South
New York, New York 10016-8013
ybar-kokhba@garbarini-scher.com (authorized)

A fee payment in the amount of \$275 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /yuva bar-kokhba/ Date Signed: 03/06/2008

Signatory's Name: Yuval D. Bar-Kokhba, Esq.

Signatory's Position: Attorney of record

[Back](#)

**Received Your Trademark/Service Mark Application,
Principal Register and Your Trademark/Service Mark
Application, Principal Register Was Submitted Successfully
Success!**

We have received your application and assigned serial number 77422393 to your submission. We will send an Email summary of the application data to "ybar-kokhba@garbarini-scher.com", which will be your official confirmation of receipt. For electronically-submitted applications, the USPTO will no longer mail an additional paper filing receipt. However, since e-mail is not always reliable, please print out and save this notice. If the USPTO later determines that no filing date was justified, your submission will be returned, and your filing fee will be refunded. You would then have the opportunity to cure the deficiency, and re-file the application. Thank you.

NOTE: Do NOT send a duplicate paper copy of this filing to the USPTO, as it will interfere with the proper processing of the electronic submission and will result in your being charged for two filings, neither of which can be refunded.

Thank you.

TEAS Support Team

STAMP: USPTO/FTK-209.21.108.66-20080314153912247747-77422393-
4003d52e7afae63f0487487cbb5e249c42f-CC-963-20080314151934751286



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Please refer questions or comments to: teas@USPTO.gov